

November 16, 2005

The Honorable Susan Gottlieb
City of Aventura
19200 West Country Club Drive
Aventura, FL 33180

Via First Class Mail and e-mail at sgottlieb@cityofaventura.com

RE: REQUEST FOR ADVISORY OPINION
VOTING CONFLICT OF INTEREST
RQO 05-108

Dear Mayor Gottlieb:

On November 15, 2005, the Commission on Ethics & Public Trust considered your request and rendered its opinion at a public meeting, based on facts stated in your letter of September 22, 2005.

Specifically, you inquired about voting conflicts you might have as Mayor of the City of Aventura when issues before the City of Aventura are represented by a law firm in which your son is an equity shareholder.

THE RELEVANT SECTIONS of the Conflict of Interest and Code of Ethics Ordinance are as follows:

2-11.1(d), *Further prohibition on transacting business with the County*, prohibits officials from voting on issues brought forth by persons with any of the following relationships to the official—officer, director, partner, of counsel, consultant, employee, fiduciary, beneficiary, stockholder, bondholder, debtor, or creditor. Absent any of these relationships, Section (d) further prohibits an official from voting on a subject item if she might profit or otherwise be enhanced, directly or indirectly, by the action.

2-11.1 (n), *Actions prohibited with financial interest involved*, prohibits city officials from participating in any official action, directly or indirectly, that would affect a business in which the official or any immediate family member (including a child) has a financial interest.

THE FACTS as presented by you indicate that, prior to your election, the City of Aventura adopted a resolution to acquire a parcel of land, either by eminent domain or negotiated purchase, from Gulfstream Race Track, which is headquartered in the neighboring city of Hallandale Beach. The law firm of Akerman, Senterfit, Edison, P.A., is general counsel to Gulfstream, and your son is an equity shareholder in the law firm. It is likely that matters involving Gulfstream regarding land acquisition will come before the City of Aventura Commission within the near future.

OUR ANALYSIS under Section 2-11.1(d) finds that you are not prohibited from voting on matters represented by your son's law firm because (1) you do not have any of the enumerated relationships with your son's firm and (2) you would neither personally benefit nor be uniquely affected by voting on matters where the law firm makes an appearance.

This interpretation is consistent with RQO 05-24. There the Ethics Commission allowed a County Commissioner to vote on matters represented by a law firm that employs his son as an associate. The law firm represents clients who appear before the County Commission on land use and other local government issues. The one distinction between RQO 05-24 and your circumstances is that in RQO 05-24 the elected official's son was an associate (with no financial interest) in his law firm. This distinction is addressed below, under Section 2-11.1 (n).

OUR ANALYSIS under Section 2-11.1(n) finds that although your son is an equity shareholder (with a financial interest) in his law firm, any financial gain the law firm might achieve as a result of your official actions are too remote to prohibit you from voting on issues presented by the firm.

IN CONCLUSION, the Ethics Commission found that you may vote on matters represented by Akerman, Senterfit, Edison, P.A., on behalf of its client Gulfstream Race Track.

However, the appearance of impropriety may arise under certain circumstances, and although not prohibited by law *per se*, you may want to take this into consideration as well.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only and is not applicable to any conflict under state law. It is our understanding that you have received an opinion letter from the State of Florida Commission on Ethics, dated October 24, 2005, which reached similar conclusions.

If you wish to discuss this opinion in greater detail, please call me at (305) 579-2594 or Victoria Frigo at (305) 350-0601.

Sincerely yours,

ROBERT MEYERS
Executive Director